



U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

Honorable Strom Thurmond
Chairman
Committee on the Judiciary
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for the views of the Department of Justice on S. 2177, a bill to amend the Immigration and Nationality Act to revise the grounds for exclusion of aliens from the United States. For the reasons set forth below, the Department opposes enactment of this legislation.

The bill would restate in part Sections 212(a)(27), (28) and (29) of the Immigration and Nationality Act ("Act"), and add a new subsection which would forbid the denial of a nonimmigrant visa because of political belief or association..

Sections 212(a)(27) and (29) bar the admission of aliens who it is believed are coming to engage in activities which would be prejudicial to the public interest or endanger the welfare, safety or security of the United States. Section 212(a)(28) bars aliens who are anarchists, communists, or members or affiliates of communist or totalitarian parties, or who advocate communism or the establishment of a totalitarian dictatorship in the United States.

The bill attempts to address some of the more vexing and controversial aspects of the laws relating to the exclusion of aliens. The Administration has strongly supported the free exchange of ideas, and has gone on record on numerous occasions in defense of those persons who have been persecuted as a result of their attempts to peacefully speak out against tyranny and oppression.

Revision of Sections 212(a)(27) (28) and (29) of the Act was considered by the Select Commission on Immigration and Refugee Policy in its deliberations in 1979. No suggested revisions were included in the Commission's final recommendations. The fact that the Commission followed this course should give some idea of the difficulty involved in revising and amending these sections of the immigration law, as the Commission did not shrink from addressing other highly controversial issues. While we may agree that the present grounds for exclusion could conceivably encompass persons who pose no physical threat to the United States, fashioning language to meet legitimate security, foreign and domestic policy considerations is no simple task.

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It is entirely conceivable, as has happened in the past, that substantial considerations of foreign or domestic policy or both will militate against the admission of particular individuals or members of particular organizations. Any revision or amendment of Sections 212(a)(27), (28) and (29) of the Act must provide authority to the Secretary of State or the Attorney General to take such considerations into account.

In the Department's view, S. 2177 does not meet this standard. While the Department is always ready to comment on technical or editorial factors in a bill and suggest changes or revisions where needed, it is clear that the bill does not acknowledge legitimate foreign and domestic policy considerations. In the absence of such fundamental and essential safeguards, it is the Department's view that technical and editorial comment on the bill would not be helpful.

The Department opposes enactment of this bill. The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

John R. Bolton
Assistant Attorney General